

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

ERIC HARCEY,

Plaintiff,

vs.

SOUTH DAKOTA BOARD OF PARDONS AND PAROLES, in its individual and official capacity, KAY NIKOLAS, Former Board Member, in her individual and official capacity, KENNETH ALBERS, Board Member, in his individual and official capacity, ED LIGHTENBERG, Board Member (Former Director), in his individual and official capacity, DAVE NELSON, Former Board Member, in his individual and official capacity, DEBRA FLUTE, Former Board Member, in her individual and official capacity, TRACI FREDRICKSON, Office Representative (Current Operations Supervisor), in her individual and official capacity, SHARON LARSON, Former Office Representative, in her individual and official capacity, DOUG CLARK, Former Director, in his individual and official capacity, BRAD LEWANDOWSKI, Current Director, in his individual and official capacity, MYRON RAU, Board Member, in his individual and official capacity, GORDY SWANSON, Board Member, in his individual and official capacity, GREGG GASS, Board Member, in his individual and official capacity, PETER LIEBERMAN, Board Member, in his individual and official capacity, KRISTEN AASEN, Board Member, in her individual and official capacity, CHUCK SCHROYER, Board Member, in his individual and official

4:21-CV-04071-KES

ORDER REQUIRING PLAINTIFF TO
FILE A CERTIFIED PRISONER TRUST
ACCOUNT REPORT

capacity, PATRICIA WHITE HORSE-CARDA, Board Member, in her individual and official capacity, VAL MCGOVERN, Office Representative, in her individual and official capacity, ANY AND ALL UNKNOWN OR UNNAMED BOARD MEMBERS, in their individual and official capacities, SOUTH DAKOTA DEPARTMENT OF CORRECTIONS, in its individual and official capacity, MIKE LEIDHOLT, Current Secretary of Corrections, in his individual and official capacity, DENNY KAEMINGK, Former Secretary of Corrections, in his individual and official capacity, BOB DOOLEY, Former Chief Warden at Mike Durfee State Prison, in his individual and official capacity, and DARIN YOUNG, Chief Warden at the South Dakota State Penitentiary, in his individual and official capacity,

Defendants.

Plaintiff, Eric Harcey, filed a pro se civil rights lawsuit under 42 U.S.C. § 1983. Docket 1. Harcey moves for leave to proceed in forma pauperis and filed a self-crafted prisoner trust account. Dockets 3, 4. The prisoner trust account report must be “a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint”. 28 U.S.C. § 1915. The prisoner trust account report provided by Harcey is not certified.

In order for the court to determine whether Harcey’s motion for leave to proceed in forma pauperis should be granted or denied, the court must have a copy of a certified prisoner trust account report. *See In re Prison Litig. Reform*

Act, 105 F.3d 1131, 1132 (6th Cir. 1997) (“If an inmate not paying the full filing fee fails to provide an affidavit of indigency or trust account statement, the district court shall notify the prisoner of the deficiency and the prisoner shall have thirty (30) days from the date of the deficiency order to correct the error or pay the full filing fee. If the prisoner does not comply with the district court’s directions, the . . . district court must then order the case dismissed for want of prosecution.”); *see also Perry v. Boston Sci. Family*, 2012 WL 694713, at *2 (D. Minn. Feb. 9, 2012), *report and recommendation adopted*, 2012 WL 694700, at *1 (D. Minn. Mar. 1, 2012) (collecting cases holding dismissal appropriate when pro se litigant fails to comply with pauper requirements and court orders).

Thus, it is

ORDERED that the Clerk of Court mail this order and a blank copy of a prisoner trust account report to Harcey.

IT IS FURTHER ORDERED that Harcey must file a certified prisoner trust account report or, in the alternative, pay the \$402 filing fee by **May 24, 2021**. Failure to comply will result in dismissal without prejudice of the complaint.

Dated April 22, 2021.

BY THE COURT:

/s/ Karen E. Schreier

KAREN E. SCHREIER
UNITED STATES DISTRICT JUDGE